

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA  
MARTINSBURG**

**MOTJUSTE TIRADE OF VIM ANDRE  
JUSTE, ANDRE JUSTE, and AIMEE  
AMARAIH ANDRE JUSTE**

Plaintiffs,

v.

**Civil Action No. 3:13-CV-182  
(JUDGE GROH)**

**LINDSAY ANNMARIE BRENNAN, a/k/a  
Lindsay Annmarie Phillips, WAL-MART  
CORPORATE, INC., and STEFANIE  
FAITH BRENNAN,**

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION**

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation of United States Magistrate Judge James E. Seibert. Pursuant to this Court's Local Rules, this action was referred to Magistrate Judge Seibert for submission of a proposed report and a recommendation ("R & R"). Magistrate Judge Seibert filed his R & R on February 25, 2014 [Doc. 6]. In that filing, the magistrate judge recommends that this Court dismiss the complaint with prejudice and deny as moot the Plaintiffs' Application for Leave to Proceed Without Prepayment of Fees [Doc. 2].

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the

findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Objections to Magistrate Judge Seibert's R & R were due within fourteen (14) days of being served with a copy of the same, pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b). Plaintiff Andre Juste accepted service of the R & R on March 24, 2014 [Doc. 7]. The copy of the R & R sent to Plaintiff Motjuste Tirade of Vim Andre Juste via certified mail, return receipt requested was returned to the clerk's office on April 7, 2014 marked "unclaimed" and "unable to forward" [Doc. 9].<sup>1</sup> None of the Plaintiffs have filed objections to the R & R. Accordingly, this Court will review the report and recommendation for clear error.

Upon careful review of the report and recommendation, it is the opinion of this Court that the magistrate judge's Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated in the magistrate judge's report. Accordingly, the Court hereby **DISMISSES** the complaint **WITH PREJUDICE** and **DENIES AS MOOT** the Application to Proceed Without Prepayment of Fees. Accordingly, this matter is hereby **ORDERED STRICKEN** from the active docket of this Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to any *pro se* parties.

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<sup>1</sup> Plaintiff Motjuste Tirade of Vim Andre Juste has not provided the Court with an updated mailing address since initiating this case.

**DATED:** April 21, 2014.

A handwritten signature in blue ink, appearing to read "Gina M. Groh", is written over a horizontal line.

GINA M. GROH  
UNITED STATES DISTRICT JUDGE